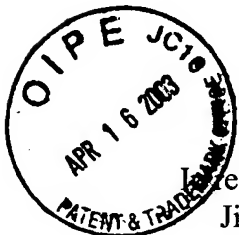




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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jihong Liang
Dilip Maganlal Shah
Yonnie S. Wu
Cindy A. Rosenberger
Salim Hakimi

Group Art Unit: 1638

Confirmation No.: 4312

Examiner: Medina A. Ibrahim

Serial No.: 10/010,731

Atty. Dkt. No.: 11899.0193.DVUS02
[MOBT:193—2]

Filed: November 13, 2001

For: ANTIFUNGAL POLYPEPTIDE FROM ALFALFA
AND METHODS FOR CONTROLLING PLANT
PATHOGENIC FUNGI

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Box Missing Parts Commissioner for Patents, Washington, DC 20231, on the date below:	
4-11-03 Date	<i>[Signature]</i> Signature

In response to the Office Action mailed on March 11, 2003, Applicants request the following:

PROVISIONAL ELECTION OF GROUP II:

In response to the restriction requirement, applicants elect, with traverse, to prosecute the Group II claims.

The Examiner has alleged that Groups I and II are distinct, and alleges that the product of Group I could be used in a materially different process than that of Group II.

Applicants respectfully traverse. Applicants respectfully submit that the subject matter of originally filed claims 14 and 15 are related as genus and species. Specifically, originally filed claim 15 is a species within the genus covered by claim 14. Inclusion of the genus of recombinant host cells in group I appears arbitrary, and applicants believe that placing these claims in distinct groups is improper. Thus applicants respectfully suggest that claim 14 be placed in Group II. Claim 15 as amended is drawn to recombinant host cells, and reflects applicants' position that claims 14 and 15 as originally filed should be part of group II. Applicants also note that an earlier restriction requirement in parent case 08/766,355, dated September 2, 1997, placed claims 1-18, 25-30, and 33 of current Groups I and II within one group. A response to that Restriction Requirement, dated December 15, 1997, elected (then) Group I without traverse.

Also enclosed herewith is a preliminary amendment. Applicants respectfully request that the noted amendments be entered prior to examination of this application.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 01-2508, referencing Order No. 11899.0193.DVUS02.



Serial No.: 10/010,731
Confirmation No.: 4312
Applicant: Jihong Liang et al.
Atty. Ref.: 11899.0193.DVUS02

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,

Darrell G. Dotson
Reg. No. 44,661
Attorney for Assignee
MONSANTO TECHNOLOGY LLC

HOWREY SIMON ARNOLD & WHITE, LLP
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Houston, Texas 77057-2198
(713) 787-1400 (Telephone)
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Date: April 11, 2003



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:

Jihong Liang
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Yonnie S. Wu
Cindy A. Rosenberger
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Group Art Unit: 1638

Examiner: Medina A. Ibrahim

Atty. Dkt. No.: 11899.0193.DVUS02
MOBS:193--2

PRELIMINARY AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

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37 C.F.R. 1.8

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4-11-03 Date Signature *Marty Arin*

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Before undertaking the examination of the above noted application, Applicant requests the following: